

ASSEMBLY BILL

No. 553

Introduced by Assembly Member Medina

February 20, 2013

An act to add Section 1923.52 to the Civil Code, relating to reverse mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 553, as introduced, Medina. Reverse mortgages: notifications.

Existing state and federal law regulate the activities of financial institutions. Existing state law regulates reverse mortgage loans and requires a lender to refer a prospective borrower to a housing counseling agency, as specified, and prohibits a lender from accepting a full and complete application for a reverse mortgage loan or assessing any fees without receiving certification, as specified, that the borrower has received loan counseling. Existing law prohibits a lender from taking a reverse mortgage application before having provided an applicant a specified disclosure notice and written checklist.

This bill would prohibit a lender from taking a reverse mortgage application unless at least 7 days prior to receiving counseling the applicant has received from the lender a specified disclosure notice. The notice would indicate, among other things, that a reverse mortgage is a complex financial arrangement that may or may not be suitable for the applicant and that the applicant is required to consult with an independent loan counselor. The bill would also prohibit a lender from taking a reverse mortgage application unless at least 7 days prior to receiving counseling the applicant has received from the lender a specified "Reverse Mortgage Suitability Self-evaluation Worksheet" that would provide, among other things, that the suitability of a

recommended purchase of a reverse mortgage should be determined with reference to the totality of the particular borrower's circumstances, goals, and needs. The worksheet would contain certain questions that the borrower is advised to consider and bring to his or her reverse mortgage counseling session.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) A reverse mortgage is a loan that allows a homeowner to
3 convert home equity into tax-free cash payments. More than 90
4 percent of all reverse mortgages are obtained through the Home
5 Equity Conversion Mortgage (HECM) program sponsored by the
6 United States Department of Housing and Urban Development.
7 Many senior citizens use reverse mortgage payments to supplement
8 retirement income or pay medical expenses. Although the HECM
9 program has been in existence since 1989, the program has seen
10 rapid growth only in the past few years. As the population ages,
11 this growth rate is expected to accelerate. The growth rate is also
12 expected to increase as sales agents and lenders turn from the
13 declining subprime and conventional mortgage market to the
14 rapidly growing market for reverse mortgages.

15 (b) Because reverse mortgage decisionmaking involves a number
16 of complex issues, before committing to a loan every senior should
17 contemplate possible negative consequences. Every prospective
18 purchaser of a reverse mortgage should study and complete the
19 worksheet this act would require before attending their mandatory
20 HUD-approved reverse mortgage counseling session. No purchaser
21 should move forward in purchasing their reverse mortgage loan
22 unless and until he or she completes the self-evaluation and clearly
23 understands if a reverse mortgage is suitable for his or her needs.

24 (c) This act shall be known, and may be cited, as the Reverse
25 Mortgage Elder Protection Act of 2013. In enacting the Reverse
26 Mortgage Elder Protection Act of 2013, it is not the intent of the
27 Legislature to discourage the use of reverse mortgages, which
28 often provide substantial benefits to senior citizens. Rather,
29 anticipating the continued rapid growth in the reverse mortgage
30 market, the Reverse Mortgage Elder Protection Act of 2013 seeks

1 to ensure that senior citizens will make informed decisions and
2 that persons who offer, sell, or arrange the sale of reverse
3 mortgages to senior citizens will act in the best interest of a
4 sometimes vulnerable population.

5 SEC. 2. Section 1923.52 is added to the Civil Code, to read:

6 1923.52. (a) No reverse mortgage loan application shall be
7 taken by a lender unless the loan applicant, at least seven days
8 prior to receiving counseling, has received from the lender the
9 following plain language statement in 16-point font or larger,
10 advising the prospective borrower about preparing for counseling
11 prior to the prospective borrower's counseling session:
12

13 **IMPORTANT NOTICE TO REVERSE MORTGAGE LOAN**
14 **APPLICANT**

15 A REVERSE MORTGAGE IS A COMPLEX FINANCIAL
16 TRANSACTION THAT MAY OR MAY NOT BE SUITABLE
17 FOR YOUR IMMEDIATE AND OR FUTURE NEEDS. IF YOU
18 DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU
19 WILL SIGN BINDING LEGAL DOCUMENTS THAT WILL
20 HAVE IMPORTANT LEGAL AND FINANCIAL
21 IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS
22 THEREFORE IMPORTANT TO UNDERSTAND THE
23 IMPLICATION OF BECOMING INVOLVED IN A REVERSE
24 MORTGAGE LOAN AND FOR YOU TO BE PREPARED TO
25 DISCUSS WITH A REVERSE MORTGAGE COUNSELOR
26 WHETHER OR NOT A REVERSE MORTGAGE LOAN IS
27 SUITABLE FOR YOU. BEFORE ENTERING INTO THIS
28 TRANSACTION, YOU ARE REQUIRED TO CONSULT WITH
29 AN INDEPENDENT LOAN COUNSELOR.
30

31 (b) In addition to the plain statement notice described in
32 subdivision (a), no reverse mortgage loan application shall be taken
33 by a lender unless the lender provides the prospective borrower
34 with a written suitability worksheet at least seven days prior to his
35 or her meeting with a HUD-approved counseling agency on reverse
36 mortgages. The suitability worksheet shall alert the prospective
37 borrower, in 16-point font or larger, that he or she should discuss
38 suitability issues with the agency counselor. The worksheet shall
39 read as follows:
40

1 The State of California has determined that it is in your best
2 interest to review and complete this worksheet before you attend
3 your reverse mortgage counseling session. You are also advised
4 to discuss every concern you may have about suitability with your
5 counselor. You should not move forward with purchasing a reverse
6 mortgage loan unless you understand whether or not a reverse
7 mortgage is a suitable loan for you. Carefully read through each
8 of these suitability questions and make notes on a separate piece
9 of paper of any question or questions you may have about
10 suitability. Have these questions with you when you have your
11 reverse mortgage counseling session. The purpose of the counseling
12 session is for you to have an opportunity to speak openly and
13 candidly with a neutral professional whose sole purpose is to help
14 you understand what it means to become involved with this
15 particular loan.

16 Reverse Mortgage Suitability Self-evaluation Worksheet

17 The suitability of a recommended purchase of a reverse mortgage
18 should be determined, with reference to the totality of the particular
19 borrower's circumstances, goals, and needs, including, but not
20 limited to, the following:

21 Directions: Carefully read through each of these suitability
22 questions and make notes on a separate piece of paper regarding
23 any question you may have about suitability. You are also advised
24 to bring these questions with you when you have your reverse
25 mortgage counseling session. The purpose of the counseling session
26 is for you to have an opportunity to speak openly and candidly
27 with a neutral professional whose sole purpose is to help you
28 understand what it means to become involved with this particular
29 loan.

30 1. What happens to others in your home after you die or move
31 out?

32 Rule: When the borrower dies, moves, or is absent from the
33 home for 12 consecutive months, the loan becomes due.

34 Considerations: Having a reverse mortgage affects the future of
35 all those living with you. If the loan cannot be paid off, then the
36 home will have to be sold in order to satisfy the lender.

- 37 • Who is currently living in the home with you?
38 • What will they do when you die or permanently move from
39 the home?

1 • Have you discussed this with all those living with you or any
2 family members?

3 • Who will pay off the loan, and have you discussed this with
4 them?

5 • If your heirs do not have enough money to pay off the loan,
6 the home will pass into foreclosure.

7 Do you need to discuss this with your counselor? Yes or No

8 2. Do you know that you can default on a reverse mortgage?

9 Rule: There are three continuous financial obligations. If you
10 fail to keep up with your insurance, property taxes, and home
11 maintenance, you will go into default. Uncured defaults lead to
12 foreclosures.

13 Considerations: Will you have adequate resources and income
14 to support your financial needs and obligations once you have
15 removed all of your available equity with a reverse mortgage?

16 • Are you contemplating a lump-sum withdrawal?

17 • What other resources will you have once you have reached
18 your equity withdrawal limit?

19 • Will you have funds to pay for unexpected medical expenses?

20 • Will you have the ability to finance alternative living
21 accommodations, such as independent living, assisted living, or a
22 long-term care nursing home?

23 • Will you have the ability to finance routine or catastrophic
24 home repairs, especially if maintenance is a factor that may
25 determine when the mortgage becomes payable?

26 Do you need to discuss this with your counselor? Yes or No

27 3. Have you fully explored other options?

28 Rule: Less costly options may exist.

29 Consideration: Reverse mortgages are compounding loans, and
30 the debt to the lender accelerates as time goes on. You may want
31 to consider using less expensive alternatives or other assets you
32 may have before you commit to a reverse mortgage.

33 • Alternative financial options for seniors may include, but not
34 be limited to, less costly home equity lines of credit, property tax
35 deferral programs, or governmental aid programs.

36 • With peer-to-peer lending or other contractual arrangements,
37 you can use your home equity to secure loans from family
38 members, friends, or would-be heirs.

39 Do you need to discuss this with your counselor? Yes or No

1 4. Are you intending to use the reverse mortgage to purchase a
2 financial product?

3 Rule: Reverse mortgages are interest-accruing loans.

4 Considerations: Due to the high cost and accelerating debt
5 incurred by reverse mortgages, using home equity to finance
6 investments is not suitable in most instances.

7 • The cost of the reverse mortgage loan may exceed any financial
8 gain from any product purchased.

9 • Will the financial product you are considering freeze or
10 otherwise tie up your money?

11 • There may be high surrender fees, service charges, or
12 undisclosed costs on the financial products purchased with the
13 proceeds of a reverse mortgage.

14 • Has the sales agent offering the financial product discussed
15 suitability with you, and has the agent given you a written
16 suitability evaluation?

17 Do you need to discuss this with your counselor? Yes or No

18 5. The impact of reverse mortgages on your eligibility for
19 government assistance programs.

20 Rule: Income received from investments will count against
21 individuals seeking government assistance.

22 Considerations: Converting your home equity into investments
23 may create nonexempt asset statuses.

24 • There are state and federal taxes on the income investments
25 financed through home equity.

26 • If you go into a nursing home for an extended period of time,
27 the reverse mortgage loan will become due, the home may be sold,
28 and any proceeds from the sale of the home may make you
29 ineligible for government benefits.

30 • If the homeowner is a Medi-Cal beneficiary, a reverse mortgage
31 may stymie the ability to transfer the home, thus, resulting in
32 Medi-Cal recovery.

33 Do you need to discuss this with your counselor? Yes or No